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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/654,094	09/03/2003	Thomas E. Creamer	BOC9-2003-0001 (370)	4899
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AKERMAN SENTERFITT P. O. BOX 3188 WEST PALM BEACH, FL 33402-3188			EXAMINER WILSER, MICHAEL P	
			ART UNIT 2195	PAPER NUMBER
			MAIL DATE 10/05/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/654,094	Applicant(s) CREAMER ET AL.	
	Examiner Michael Wilser	Art Unit 2195	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 June 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-28 are pending in this application.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A. Claims 8 and 26 recites the limitation "said application server" in lines 4 & 5 respectively. There is insufficient antecedent basis for this limitation in the claim.

B. The following claim language is vague or indefinite:

(i) As per Claims 1, 11, 18, and 19 state the limitation "intermittently". It is unclear as to what is meant by "intermittently". It is unknown as to how often the information is supposed to be sent as well as what is to trigger the sending of a message from a component.

(ii) In addition, Claims 1, 11, 18, and 19 state the limitations "sending" and "receiving". It is unclear as to where the "sending" is going and who is doing the "receiving". It is unknown whether the information is being sent to a specific location or to anyone that is interested as well as what is receiving the information and how many things can receive the information.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-28 are rejected under 35 U.S.C. 102(e) as being anticipated by Reichman (US 6,738,813).

6. As per Claim 1, Reichman teaches the invention substantially as claimed including a method for serving applications comprising:

- a. intermittently and without prompting sending component usage messages from application components (column 8, lines 30-43);
- b. each component usage message generated by a corresponding application component and specifying information about the corresponding application component (column 4, lines 13-15 & 21-23);
- c. activity information specifying at least one of a number of users accessing the corresponding application component, a number of requests received by the corresponding application component within a predetermined time interval, and a rate at which resources of the corresponding application component are used (abstract, lines 15-16);
- d. receiving at least one component status publication generated based upon the activity information specified by the component usage information, each component status publication specifying a usage level for an application component (column 1, lines 59-63);
- e. acquiring a client request (column 5, line 65 – column 6, line 34);
- f. selecting a server response for the client request based in part upon the component status publication, wherein each response differentially utilizes application components (column 5, lines 55-67); and
- g. responding to the client request with the selected server response (column 5, line 65 – column 6, line 34).

7. As per Claim 2, Reichman further discloses of registering each application component with a centralized location that publishes the component status publications (column 5, lines 25-35).

8. As per Claim 3, Reichman further discloses that the application components comprise local and external components (column 10, lines 25-30) and further comprising:

a. server response can be provided by using either local or external components (column 5, line 65 – column 6, line 34);

b. comparing usage level of external components with usage threshold (column 6, lines 20-45); and

c. if usage threshold is exceeded, using the local component to provide server response, otherwise use external component (column 6, lines 30-50).

9. As per Claim 4, Reichman further discloses of transmitting component usage information from application component to central location that distributes component status information (column 5, lines 30-43).

10. As per Claim 5, Reichman further discloses of:

a. specifying a usage message format (column 5, line 66 – column 6, line 15);
and

b. formatting component usage information in accordance with usage message format (column 5, line 66 – column 6, line 15).

11. As per Claim 6, Reichman further discloses of:

a. conveying client request and component status information to a control layer (column 5, lines 25-30);

b. calling from control layer a method in the application layer (column 5, lines 55-60); and

c. activating one application component responsive to the calling (column 5, lines 55-60).

12. As per Claim 7, Reichman further discloses of:

a. identifying plurality of server responses for client requests (column 5, lines 55-67);

b. for server response, determining a utilization for components that generate server response (column 5, lines 38-54);

c. comparing required utilization with available component capacity, wherein capacity is determined in part by component status information (column 5, lines 38-54); and

d. selecting server response based upon comparing (column 5, line 65 – column 6, line 34).

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13. As per Claim 8, Reichman further discloses of:

- a. determining an overload condition based upon component usage messages (column 6, 20-25); and
- b. responding to overload condition by adjusting from steady-state to an overload-state (column 6, lines 35-47).

14. As per Claim 9, Reichman further discloses of limiting usage of components that triggered the overload condition (column 6, lines 35-47).

15. As per Claim 10, Reichman further discloses of:

- a. determining an end of the overload condition based upon component usage messages (column 8, lines 38-50); and
- b. adjusting the server from overload-state to steady-state (column 8, lines 38-50).

16. As per Claims 11 and 18-19, they are rejected for the same reason as Claim 1 above.

17. As per Claim 12, Reichman further discloses that the usage level indicates an overload state, and wherein the status hub is configured to provide at least one overload message whenever completion of the client request requires an application

component that is in the overload state, and wherein the server response comprises the overload message (column 8, lines 56 – column 9, line 8)

18. As per Claim 14, Reichman further discloses of the application server is a multilayered server configured to provide different responses to client requests (column 5, line 65 – column 6, line 34) based on component status information (column 4, lines 13-15 & 21-23).

19. As per Claim 15, Reichman further discloses that the application layer contains a plurality of data methods which utilize application components (Figure 1).

20. As per Claim 16, Reichman further discloses that the control layer is configured to perform at least one action selected from the group comprising parsing parameters, checking input, fetching data objects, and calling methods (column 5, lines 25-40).

21. As per Claim 17, Reichman further discloses that the interface layer is configured to generate and format documents containing server responses (column 5, line 65 – column 6, line 15).

22. As per Claims 13 and 22, they are rejected for the same reason as Claim 4 above.

23. As per Claims 20-21, they are rejected for the same reason as Claims 2-3 above.

24. As per Claim 23, Reichman further discloses of conveying client request from a client browser through a server to an application server (Figure 1).

25. As per Claims 24-28, they are rejected for the same reason as Claims 6-10 above.

Response to Arguments

26. Applicant's arguments with respect to claims 1-28 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

27. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Horvitz et al. (US 2004/0199663) Harnessing Information About the Timing of a User's Client-Server Interactions to Enhance Messaging and Collaboration Services.

28. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Wilser whose telephone number is (571) 270-1689. The examiner can normally be reached on Mon-Fri 7:30-5:00 EST (Alt Fridays Off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (571) 272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



MPW

September 17, 2007



LEWIS A. BULLOCK, JR.
PRIMARY EXAMINER